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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

2022 SEP 21 PM 4:34

U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

UNITED STATES OF AMERICA,

v.

DAILON DABNEY,

Defendant.

CASE NO.

JUDGE J. McFARLAND

INDICTMENT

49 U.S.C. § 40103

49 U.S.C. § 46306(b)(5)(A)

49 U.S.C. § 46307

FORFEITURE ALLEGATION

THE GRAND JURY CHARGES:

At all times relevant to this Indictment:

1. The defendant, **DAILON DABNEY**, is an individual who is a resident of the City of Cincinnati and the Southern District of Ohio.
2. The National Football League ("NFL") is a professional American football sport league that consists of thirty-two teams. The Cincinnati Bengals is one of the 32 teams within the NFL and is headquartered within the Southern District of Ohio.

BACKGROUND AND APPLICABLE LAW

3. The Federal Aviation Administration (FAA) is an agency within the United States Department of Transportation responsible for the control and use of navigable airspace within the United States. The FAA created the National Airspace System (NAS) to protect persons and property on the ground, and to establish a safe and efficient airspace for civil, commercial, and military aviation. In the FAA Modernization and Reform Act

of 2012, the FAA was charged with safely integrating unmanned aircraft systems (UAS), commonly referred to as “drones,” into the NAS.

4. Title 14 (“Aeronautics and Space”), Code of Federal Regulations, § 1.1 defines the following terms used herein:

- a. “Aircraft” means a device that is used or intended to be used for flight in the air.
- b. “Unmanned aircraft” means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.
- c. “Small unmanned aircraft” means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.
- d. “Small unmanned aircraft system” (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

5. Pursuant to 14 C.F.R. § 48.15, no person may operate a small UAS unless the drone is registered with the FAA (with limited exceptions) and marked as required under the regulations.

6. Title 49 (“Transportation”), United States Code, § 40103(b)(3) requires the Administrator of the FAA, in consultation with the Secretary of Defense, to establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas. A temporary flight restriction (TFR) is a regulation established by the FAA that temporarily restricts certain aircraft from operating within a defined area in order to protect persons or property in the air or on the ground.

7. Pursuant to 49 U.S.C. §§ 40103(b) and 46307, as well as 14 CFR § 99.7, the FAA issued a Temporary Flight Restriction for certain sporting events called NOTAM 0/0367, which states in part:

STADIUM OR SPORTS EVENTS: PURSUANT TO TITLE 14 CFR SECTION 99.7, SPECIAL SECURITY INSTRUCTIONS, ALL MANNED AND UNMANNED 2001150001-PERM END PART 1 OF 4 FDC 0/0367 FDC PART 2 OF 4 SECURITY SPECIAL SECURITY INSTRUCTIONS AIRCRAFT OPERATIONS ARE PROHIBITED EXCEPT AS SPECIFIED BELOW WITHIN AN AREA DEFINED AS: 3 NMR OF A QUALIFYING STADIUM OR OTHER SPORTING VENUE HOSTING A QUALIFYING EVENT UP TO AND INCLUDING 3000FT AGL. QUALIFYING LOCATIONS AND EVENTS ARE DEFINED AS ANY STADIUM OR OTHER SPORTING VENUE HAVING A SEATING CAPACITY OF 30,000 OR MORE WHERE: A. A REGULAR OR POST SEASON MAJOR LEAGUE BASEBALL, NATIONAL FOOTBALL LEAGUE, OR NCAA DIVISION ONE FOOTBALL GAME IS OCCURRING.

FDC NOTAM (Notification to Airmen) 0/0367. UAS and drones are specifically subject to NOTAM 0/0367.

8. Title 49, U.S. Code, § 46307 prohibits a person from knowingly or willfully violating 49 U.S.C. § 40103(b)(3), or a regulation prescribed, or order issued under § 40103(b)(3).

JANUARY 15, 2022

9. The defendant, **DAILON DABNEY**, is the owner of a UAS later identified as a DJI Mavic AIR 2 with serial number 3N3BHCA 012025T (hereinafter “the Drone”). A video camera is affixed to the Drone. The Drone is not registered with the FAA.
10. The defendant, **DAILON DABNEY**, does not have an FAA 107 license to fly the Drone.
11. On January 15, 2022, the Cincinnati Bengals hosted an NFL playoff game at Paul Brown Stadium (now “Paycor Stadium”) in Cincinnati, Ohio (the “Event”).

12. Accordingly, the area in and around Paul Brown Stadium was subject to NOTAM 0/0367 Temporary Flight Restriction during the Event. Accordingly, no unauthorized drone could fly within that zone from one hour before the Event until one hour after the Event.
13. During the Event, **DAILON DABNEY** flew the drone in the restricted flight area.
14. On January 15, 2022, during the Event, the defendant, **DAILON DABNEY**, flew the Drone into the bowl of the stadium and, at times, hovered over the players and portions of the stadium crowd while the game was being played.
15. The defendant, **DAILON DABNEY**, recorded his drone flight during the NFL game and posted the video on his social media sites after the Event, including a YouTube page called “BrickByBrickProduction513.” The recording shows that the drone hovered over portions of the players and the stadium crowd during the game.

COUNT 1

(Operation of Unregistered Drone)

16. Paragraphs 1 - 15 of the Indictment are incorporated and restated herein.
17. On or about January 15, 2022, the defendant, **DAILON DABNEY**, who owned an aircraft eligible for registration under section 44102, knowingly and willfully operated that aircraft when the aircraft was not registered under section 44103.

In violation of 49 U.S.C. § 46306(b)(5)(A).

COUNT 2

(Violation of a Temporary Flight Restriction)

18. Paragraphs 1 - 15 of the Indictment are incorporated and restated herein.
19. On or about January 15, 2022, in the Southern District of Ohio, **DAILON DABNEY**, while piloting an Unmanned Aircraft System, did knowingly, and without lawful

authority, conduct aircraft operations in restricted airspace above Paul Brown Stadium (now Paycor Stadium), a stadium having a seating capacity of 30,000 or more where a National Football League game was occurring, in violation of Title 14, Code of Federal Regulations, § 99.7, a regulation prescribed under Title 49, United States Code, Section 40103(b)(3).

In violation of 49 U.S.C. § 46307 and 40103(b).

FORFEITURE ALLEGATION

Upon conviction of the offense set forth in Count 1 of this Indictment, the defendant, **DAILON DABNEY**, shall forfeit to the United States, pursuant 49 U.S.C. § 46306(d)(1) and 28 U.S.C. § 2461(c), any aircraft whose use is related to the commission of such violation or to aiding or facilitating the commission of such violation, including but not limited to a DJI Mavic AIR 2 with serial number 3N3BHCA 012025T.

A TRUE BILL.

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FOREPERSON

KENNETH L. PARKER
UNITED STATES ATTORNEY


TIMOTHY S. MANGAN, 069287
ASSISTANT UNITED STATES ATTORNEY